

# The Law Enforcement Weakness of Songs and Musics Copyright Crimes

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## Abstract

*This research aimed to: (a) obtain the forms of copyright infringement of songs and/or music (with or without lyrics); (b) understand the role of the police, in this case the Police Precinct, in the law enforcement; (c) identify the factors that influenced the law enforcement. The research method used the normative-empirical legal research, with the initial stages of specifying norms in order to get the proper picture, and then specifying empirical events in order to get the real picture. The research results showed several matters: 1) The forms of copyright infringement of songs and/or music (with or without lyrics) found included: the distribution of the works or the copies, the performances of the works, and the announcements of the works; 2) Police Precinct did not ultimately carry out their role as a law enforcer for the copyright infringement of songs and/or music (with or without lyrics); and 3) The factors that influenced the law enforcement on the copyright infringement of songs and/or music (with or without lyrics), namely: legislation factor, in the matter of complaint offenses; law enforcement factor, in terms of the capacity of members; less supportive factor of facilities and infrastructure; legal awareness factor, in the problem of the lack of legal counseling; and cultural factor, related to the differences in norms in the copyright law between those in society and those in regulations.*

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## 1. Introduction

Nowadays, there are massive violations of copyright for songs and / or music with or without subtitles, including in Medan. The criminal acts that occurred also varied greatly with various forms of violations. Of course, this shows the weakness of law

enforcement on the copyright of songs and / or music with or without text. This research is certainly very important to research, at least based on interrelated reasons, one of which, the state's obligation to guarantee the copyright; while on the other hand, the copyright infringement of songs and/or music (with or without lyrics) still occurs massively.

The obligation of the state in guaranteeing creator rights. Of course, the state's obligation to guarantee the creators' rights can be seen from the current positive law in Indonesia which gives rights to creators over their works. The Law No. 28/2014 concerning Copyright Law (UUHC~Ind.) provides creators or copyright holders in the form of exclusive rights to control their works,<sup>1</sup> both in terms of economic benefits (economic rights) and moral (moral rights).<sup>2</sup> Song and / or music with or without text is one of the works protected under Article 40 paragraph (1) letter d of the UUHC.<sup>3</sup>

The granting of copyright through positive law is a logical consequence of the existence of Indonesia as a nation of laws, or, a constitutional state.<sup>4</sup> As a guideline for the life of the nation, state, and society, the law aims to protect the entire Indonesian nation and their entire native land, to improve the public welfare, and to contribute to the establishment of a world order based on freedom, abiding peace, and social justice.<sup>5</sup>

Speaking of a constitutional state, it cannot be separated from the tool to achieve its goals, that is, the police. The existence of the police in a constitutional state is to carry out one of the functions of the State government in the field of maintaining security and public order, law enforcement, protection and public service.<sup>6</sup>

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<sup>1</sup> See Article 1 (1) of UUHC.

<sup>2</sup> Economic rights can be seen in Article 8 of UUHC, while the moral rights can be seen in Article 5 of UUHC.

<sup>3</sup> Komang Ardika, Marwanto. (2019). "Pemanfaatan Lagu Secara Komersial Pada Restoran Serta Keberadaan Pengunjung yang Menyanyikan Lagu Secara Volunteer". *Jurnal Ilmiah Ilmu Hukum Kertha Semaya* (7) 6: 1-13

<sup>4</sup> Ahmad, A., & Nggilu, N. M. (2020). Denyut Nadi Amandemen Kelima UUD 1945 melalui Pelibatan Mahkamah Konstitusi sebagai Prinsip the Guardian of the Constitution. *Jurnal Konstitusi*, 16(4), 785-808.

<sup>5</sup> Yopi Gunawan and Kristian. (2015). "Perkembangan Konsep Negara Hukum & Negara Hukum Pancasila". Bandung: Refika Aditama. p. 96.

<sup>6</sup> Article 2 of Law No.2 of 2002 concerning the Indonesian National Police.

Despite the existence of the police in a constitutional state is very important, yet according to a survey conducted by the Indonesian Institute of Sciences (LIPI~Ind.) which took place in April to July 2018 in 11 provinces, involving 145 political, economic, socio-cultural, and defense-security experts, showed that the performance of the Police in the sectors of security and law enforcement had not been satisfying yet.<sup>7</sup>

Absolutely, such performance is also directly proportional to the current copyright infringement of songs and/or music (with or without lyrics) occurring massively. Talking about intellectual property in general in Indonesia, the law enforcement is very poor. Every year, Indonesia is always in the priority watch list whose law enforcement is observed by the international community. In the last 10 years and based on the Special 301 Report issued by the United States Trade Representative (USTR), Indonesia has never made it out of the list.

See this explanation about the USTR:

*“The office of USTR is responsible for developing and coordinating U.S. international trade, commodity, and direct investment policy, and overseeing negotiations with other countries. USTR publishes several reports that may be helpful to U.S. businesses with international suppliers or customers. The annual Special 301 Report identifies countries meriting bilateral attention to address IPR problems.”<sup>8</sup>*

Based on the explanation from the U.S. Companies Export, USTR is a representative of the United States (U.S.) which is responsible for developing and coordinating U.S. international trade, commodity, direct investment policy, and overseeing negotiations with other countries. USTR publishes several reports that are helpful to U.S. businesses, one of which is the Special 301 Report which identifies countries meriting bilateral attention to address intellectual property problems. In fact, this year Indonesia is back in the priority watch list published by USTR.<sup>9</sup>

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<sup>7</sup> Syamsudin Haris. (2019). “Penjelasan LIPI Soal Kinerja Polri yang Masih Dinilai tidak Memuaskan”. Retrieved from <http://lipi.go.id/lipimedia/penjelasan-lipi-soal-kinerja-polri-yang-masih-dinilai-tidak-memuaskan/21134> [Kabar24.bisnis.com](http://Kabar24.bisnis.com). Accessed on August 21, 2019

<sup>8</sup> US Companies Export. (2016). “International Trade Administration”. Retrieved from <https://www.export.gov/article?id=Office-of-the-United-States-Trade-Representative>. [www.export.gov](http://www.export.gov), 7/22/2016. Accessed on August 21, 2019

<sup>9</sup> The Office of United States Trade Representative. (2019). “Special 301 Report”. Retrieved from [https://ustr.gov/sites/default/files/2019\\_Special\\_301\\_Report.pdf](https://ustr.gov/sites/default/files/2019_Special_301_Report.pdf) . (Accessed on August 21, 2019).

Copyright infringement in Indonesia is not something new. Even from 1958 to 1988, almost all songs and/or music (with or without lyrics) albums from international musicians been sold in Indonesia were pirated products. This was triggered by the policy of Prime Minister Djuanda in 1958, regarding the departure of Indonesia from the international copyright convention, that is, the Berne Convention.<sup>10</sup>

Until finally in 1985 when Bob Geldof, an activist who held a Live Aid concert to help famine victims in Ethiopia in 1985, and QUEEN, as one of the bands who performed at that day, issued a censure. Such censure for Indonesia was triggered by the government's attitude that allowed the charity concert to be pirated. Later, Indonesia responded by making changes of UUHC 1982 to UUHC 1987. Indonesia's reparticipation in the Berne Convention also resulted in UUHC 2002, and as a seriousness, Indonesia re-issued a new law, namely UUHC 2014.<sup>11</sup>

As if it was endless, the problem of piracy was still an apprehensive matter in 2014 itself. According to an Indonesian newspaper, Koran SINDO, the prediction of the market for pirated recording of songs and/or music (with or without lyrics) in Indonesia in 2014 was 5.624 billion, which was greater than the prediction of the legal market, namely 4.650 billion.<sup>12</sup>

The Indonesian music industry is also often stained by various cases of violations, as DETIKHOT (Indonesian online news portal) once released five major cases in the music industry. **First**, a karaoke place owned by a dangdut singer, Inul Daratista, who was accused of neglecting the rights of the creators in which the case was brought to trial at the Central Jakarta District Court. **Second**, the song entitled *Butiran Debu* which was popularized by RUMOR (band), and this song was claimed by Farhat Abbas as his composition, then this case went to the South Jakarta Police Precinct. **Third**, the case between ARMADA (band) and LARROCA (band) regarding the case of the song entitled *Pemilik Hati*. **Fourth**, Tommy Darmo, as the copyright holder of the KOES PLUS (band) album, the *Dheg Dheg Plus*, made a report to the Greater Jakarta Metropolitan Regional

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<sup>10</sup> Koran SINDO. (2015). "*Lagu Lama Pembajakan Musik yang Terus Terdengar*". Retrieved from <https://nasional.sindonews.com/read/1009042/149/lagu-lama-pembajakan-musik-yang-terus-terdengar-1433470653>. www.sindonews.com. Accessed on July 21, 2019

<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*

Police, and filed a civil suit worth 9.9 billion IDR for the action of the recording company RPM who suddenly re-released the song. **Fifth**, the case of *Kidung Abadi* concert by Chrisye which was held in 2012 where the promoter of Live Action did not ask permission from the legendary songwriter, Yockie Suryo Prayogo and his partner, Debby Nasution.<sup>13</sup>

Talking about the law enforcement of the copyright of songs and/or music (with or without lyrics) in Medan City, for example, related to the duplication rights such as piracy, the newspaper TOBA POS said: "The circulation of pirated DVDs/VCDs is very popular in Medan City due to the weak supervision from law enforcement officials." This was obtained through the observations of TOBA POS journalists where in almost every street in Medan City, to traditional markets and plazas, there are always traders selling pirated songs and/or music (with or without lyrics) albums.<sup>14</sup>

In terms of the law infringement of announcing songs and/or music (with or without lyrics) without a license, there are many karaoke businesses in Medan City; this can be seen from several places and the increase in such business. The owners get their economic benefits from the songs and/or music belong to other parties, hence there is an obligation to pay royalties. A research by Lubis shows that there are still many karaoke businesses in Medan City who put aside their obligation to pay royalties.<sup>15</sup>

So it is with LONG STICK (band), a local band of Medan City, released their mini album in 2016. This band – as the vocalist explained – thought they weren't famous; in fact, their mini album was only released on 100 CDs. Ironically, they found several pirated CDs from their mini album.<sup>16</sup>

## 2. Problem Statement

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<sup>13</sup> Detik. (2013). "5 Kasus Hak Cipta Lagu di Indonesia". Retrieved from <https://hot.detik.com/music/d-2204907/5-kasus-hak-cipta-lagu-di-indonesia/6.www.detikhot.com> . Accessed on July 21, 2019

<sup>14</sup> Toba Pos. (2016). "Polresta Medan Diminta Tangkap Ari Sikumbang, Pemilik Grosir VCD/DVD Bajakan dan Film Porno". Retrieved from <http://m.tobapos.co/view/1/1023/Polresta-Medan-Diminta-Tangkap-Ari-Sikumbang-Pemilik-Grosir-VCD-DVD-Bajakan-dan-Film-porno.html> . Accessed on August 21, 2019

<sup>15</sup> Haura Nurfadilla Lubis. (2017). "Pelaksanaan Pemungutan Royalti oleh Yayasan Karya Cipta Indonesia Sumut atas Pengumuman Karya Cipta Lagu atau Musik oleh Usaha Karaoke di Kota Medan: Studi Pada Yayasan Karya Cipta Indonesia Sumut". Retrieved from <http://repository.usu.ac.id/handle/123456789/688312017> . Accessed on August 21, 2019

<sup>16</sup> Dewantoro. (2018). "90% Industri Musik Terpuak Pembajakan". Retrieved from <http://www.medanbisnisdaily.com/news/read/2018/02/20/337973/90-industri-musik-terpuak-pembajakan/> . Accessed on August 12, 2019.

Based on what has been mentioned above, it is expected that this research could find any kinds of copyright infringement of songs and/or music (with or without lyrics) in Medan City, could understand the role of the police, in this case the Medan City Police Precinct, in law enforcement; and could identify any factors influencing the law enforcement.

### 3. Method

Considering that this research not only wanted to portray the norms that should have been carried out by the police in law enforcing of the copyright of songs and/or music, but also wanted to portray its application by the police, especially in Medan City. Accordingly, this research is a normative-empirical legal research, meaning that it is a legal research on the *in-action* application of normative legal provisions (codification, law, or contract) on any particular legal event that occurs in society.<sup>17</sup>

### 4. Discussion

#### 4.1. Types of Copyright Infringement of Songs and/or Music

Song(s) and/or music, either with or without lyrics, is one of the copyrighted works protected in Law No. 28 of 2014 concerning Copyright (UUHC~*Ind.*), therefore, it is similar to other works, the creators are given exclusive rights to their songs and/or music works. Exclusive rights itself refers to two rights, namely moral rights and economic rights.<sup>18</sup>

Through moral rights, creators are given control over their works which includes the inclusion of their identity, alteration of their creations, and other things that can harm their self-respect or reputation.<sup>19</sup> Moral rights are rights inherent in Creators or Actors that cannot be removed or deleted without any reason, even though Copyright or Related Rights have been transferred.<sup>20</sup> Through economic rights, the creator is given control over his work which includes the economic benefits of the work.<sup>21</sup> In principle,

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<sup>17</sup> Abdulkadir Muhammad. (2004). "*Hukum dan Penelitian Hukum*". Bandung: Citra Aditya Bakti. p. 134.

<sup>18</sup> Article 4 of Law No. 28 of 2014 on Copyright.

<sup>19</sup> Articles 5 and 8 of Law No. 28 of 2014 on Copyright.

<sup>20</sup> Rezky Lendi Maramis. (2014). "*Perlindungan Hukum Hak Cipta atas Karya Musik dan Lagu dalam Hubungan dengan Pembayaran Royalti*". *Lex Privatum* 2 (2): 116

<sup>21</sup> *Op. Cit.*, Articles 5 and 8.

economic rights are the right to obtain economic benefits for works and related rights products.<sup>22</sup>

Although the protection of moral rights and economic rights to songs and/or music (with or without lyrics) is equally important, however, the UUHC focuses more on protecting economic rights. This can be seen in the criminal provisions contained in the UUHC which only provide sanctions for the economic rights infringement. In more detail, the controls of the creator's economic rights over their works are:

- a. publication of works;
- b. duplication of works in all forms;
- c. translation of works;
- d. adaptation, arrangement, or transformation of works;
- e. distribution of works or the copies;
- f. performance of works;
- g. announcement of works;
- h. communication of works; and
- i. leasing of works.<sup>23</sup>

Therefore, everyone who carries out these activities commercially must have the permission from the songwriters and/or music (with and or without text) composers concerned. Infringements of these matters is punishable by imprisonment of up to 10 (ten) years and/or a maximum fine of Rp 4,000,000,000.00 (four billion rupiahs).

The songs and/or music (with or without lyrics) copyright infringement encountered in Medan City include the distribution of works or the copies, the performances of works, and the announcements of works. The type of infringement in distributions of works or the copies is run by several traders across several areas, such as the shops located on Jalan Sumatra, the *Pajak Sumber* USU, and the Pasar Sukaramai, by selling either Compact Disc (CDs), Video Compact Disc (VCDs), or Digital Versatile Disc (DVDs) which contain songs and/or music (with or without lyrics). The type of infringement in performances of works is held by cafés that provide live music Medan City, whereas it can also be ascertained that neither the cafés nor the bands perform songs and/or

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<sup>22</sup> *Op. Cit.*, Rezky Lendi Maramis.

<sup>23</sup> See Article 9 of Law No. 28 of 2014 on Copyright.

music (with or without lyrics) which have permission from the composers. Meanwhile, the type of infringement in the announcements of works are made by several outlets along Padang Bulan streets.<sup>24</sup>

In general, the *modus operandi* of committing a criminal violation of the copyright of song must be proven for commercial purposes. Likewise, what was done in various regions in Medan as stated above, the mode of activity of the violation with the motive of obtaining economic benefits from songs and/ or music with or without the existing text was clearly visible.<sup>25</sup>

#### **4.1. The Role of the Indonesian National Police in Enforcing the Copyright Law of Song and/or Music**

This master thesis research is focused on the role of the police for the criminal act of the copyright of songs and/or music (with or without lyrics) that occurred in Medan City, in this case, the Medan Police Precinct. In order to see the role of the Medan Police Precinct thoroughly in overcoming criminal acts of the copyright of songs and/or music (with or without lyrics), researchers observed the three roles of the police, namely:

##### **1. Preemptive Role**

In this role, the police should provide guidance to the public in order to increase legal awareness for the public so as not to duplicate and or announce songs and or music (with or without lyrics) since they are protected by copyright. This has been done by the Medan Police Precinct by holding the Socialization of Law No. 28 of 2014 concerning the Songs License Management Copyright in Karaoke Business, held at Grand Kanaya Hotel on 27 July 2017.<sup>26</sup>

##### **2. Preventive Role**

The police carry out this role in order to be able to maintain the security and public order, meaning that no community rights is infringed, in this case, the creators. This effort has also been pursued by the Medan Police Precinct by carrying out this duty which required professional technical skills such as patrols, directing the businessmen

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<sup>24</sup> Interviewed with Police Chief Brigadier Kennorton Simanjuntak, SH., as an Investigator at the Criminal Investigation Unit of the Medan Police Precinct on February 28, 2020.

<sup>25</sup> Habi Kusno,. (2016). "Legal Protection of Copyright Creator of Song Downloaded Through the Internet". *Jurnal Fiat Justisia* 10 (3): 413-502

<sup>26</sup> *Ibid.*



whose businesses had the potential to infringe the copyright of songs and or music (with or without lyrics), either by duplicating or announcing.<sup>27</sup>

### 3. Repressive Role

This repressive role is carried out in a manner that has been regulated by the legislation regarding the law enforcement in the copyright of songs and or music (with or without lyrics) in Indonesia. However, this role is no longer effective considering that this criminal act requires complaints from the injured parties, in this case, the creators. This *klachtdelict* (*antragsdelikt*) is later considered a stumbling block for the police in carrying out this role.<sup>28</sup>

## 4.3. Law Enforcement Factors on Copyright Infringement of Song and/or Music

### 4.3.1. Legislation Factor

One of the significant changes to the criminal law policy in the UUHC is related to offense, which is originally an ordinary offense to become a *antragsdelikt*, meaning that everyone cannot report that a copyright infringement has occurred because it is considered that they have no interest in the copyright.<sup>29</sup> The application of such *antragsdelikt* apparently leaves several weaknesses in a sub-national manner which can be viewed from several aspects, including:

1. Article 120 of Law No.28 of 2014 does not clearly and firmly state which parties have the right to make complaints. This is certainly different when compared to the provisions of Article 45 of Law No.28 of 2014 which have been applicable under Law No.6 of 1982 concerning Copyright which explicitly and obviously regulates the following provisions: Criminal acts as referred to in Article 44 cannot be prosecuted except for complaints from copyright holders.
2. Article 120 of Law No.28 of 2014 as the current law does not clearly and assertively state whether the complaint is still being processed, if the parties who have the right to make complaints are only complained by one person, or the complaints are not made by all parties who have the right to complain.<sup>30</sup>

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<sup>27</sup> *Ibid.*

<sup>28</sup> *Ibid.*

<sup>29</sup> Article 120 of Law No. 28 of 2014 concerning Copyright.

<sup>30</sup> Handoko Duwi. (2015). "*Hukum Positif mengenai Hak Kekayaan Intelektual di Indonesia* (The

Another weakness of antragsdelikt is that there is no guarantee that the articles related to infringements in the UUHC are actually realized on field.<sup>31</sup>The police, whose job is to enforce the law, cannot take any action before a complaint is made, even though the police on duty in Medan know the places where the copyright infringement of songs and/or music (with or without lyrics) occurs.<sup>32</sup>

Take a look at the data on the settlement of cases of copyright infringement of songs and/or music (with or without lyrics) at Medan Police Precinct.

KEPOLISIAN NEGARA REPUBLIK INDONESIA  
DAERAH SUMATERA UTARA  
RESOR KOTA BESAR MEDAN

DATA : PENYELESAIAN PENANGANAN PERKARA PELANGGARAN HAK CIPTA LAGU DAN ATAU MUSIK SELAMA TAHUN 2018 S.D 2019  
PADA SAT RESKRIM DAN POLSEK JAJARAN POLRESTABES MEDAN

NO	NO & TGL LAPORAN POLISI BERSERTA THP	PASAL YANG DILANGGAR	URAIAN SINGKAT	IDENTITAS TERSANGKA	PELAPOR	BB YANG DISTA	POSISI TERAKHIR PENANGANAN PERKARA	KET
1	2	3	4	5	6	7	8	9
1.								
2.								
3.								
4.								
5.								

N I H I L

**KET:**

1. SAT RESKRIM :  
- JTP :-  
- JPTP :-

2. POLSEK JAJARAN :  
- JTP :-  
- JPTP :-

**PENYELESAIAN**

1. TAHAP II :-  
2. SP3 :-  
3. LIMPAAH :-

Medan, Februari 2020

KAURBIN GABUNG RESKRIM POLRESTABES MEDAN



INSPEKTUR POLISI SATU NRP 62110566

Source : The Indonesian National Police, North Sumatra City Resort, Medan City Police Precinct

Surely this is very different from before the enactment of the current UUHC, which previously adopted the ordinary offense, and where the police were able to conduct patrols and taking immediate actions as soon as infringements were found. This was very effective at that time, where initially the copyright infringement of songs and/or music (with or without lyrics) was flagrant in Medan City; even pirated songs and/or music (with or without lyrics), which were easily found in big malls in Medan City, gradually reduced.<sup>33</sup>

Positive Law regarding the Intellectual Property Rights in Indonesia)". Pekanbaru: Hawa and Ahwa. p. 66-68.

<sup>31</sup> Pardisan Jamba. "Analisis Penerapan Delik Aduan dalam UU Hak Cipta untuk Menanggulangi Tindak Pidana Hak Cipta di Indonesia (Analysis of the Application of Antragsdelikt in the UUHC to Overcome Copyright Infringements in Indonesia)". Jurnal Cahaya Keadilan 3 (1): 45-47.

<sup>32</sup> Interviewed with the Head of Sub-Unit II, Investigator 5 Unit, Philip Antonio Purba, SH., on February 28, 2020.

<sup>33</sup> *Ibid.*

Through what has been conveyed in this section, in order to guarantee law enforcement of copyright for song and / or music copyright with or without text by the Medan Police, it is appropriate to apply ordinary offense in the UUHC. This is to ensure the Medan Police Precinct discretion in ensuring law enforcement, without requiring the aggrieved party to become a reporter first. Especially in copyright law for songs and / or music with or without text that is harmed, of course, is the creator who incidentally is likely to be a foreign citizen, so it is very possible that the creator does not know that he has been a victim of violation, and even if the creator finds out about it, of course it will be very difficult to make reports in Indonesia, especially Medan

#### 4.3.2 Law Enforcement Factors

Police are required to have physically and mentally strong and also resilient, yet mainly to have moral integrity and professionalism. Conceptually, members of the Police are organizational human resources that need attention. The following are the personnels of Police Precinct related to the law enforcement of the copyright of songs and/or music (with or without lyrics).

KEPOLISIAN NEGARA REPUBLIK INDONESIA  
DAERAH SUMATERA UTARA  
RESOR KOTA BESAR MEDAN

PERSONEL YANG BERTUGAS DALAM MENJALANKAN KEBIJAKAN HUKUM PIDANA  
PELANGGARAN HAK CIPTA LAGU DAN ATAU MUSIK DI POLRESTABES MEDAN

NO	NAMA	PANGKAT	NRP	JABATAN	MENGIKUTI PELATIHAN HKI (HAK KEKAYAAN INTELEKTUAL)	STRATA	PRODI	KET
1	2	3	4	5	6	7	8	9
<b>UNIT IDIK 5 (PIDANA EKONOMI/PIDEK)</b>								
1.	PAUL E. SIMAMORA, SS	AKP	70050239	KANIT IDIK 5	-	S-1	SASTRA	
2.	MEMBELA KARO-KARO, SH	IPTU	67120174	KASUBNIT 1 UNIT IDIK 5	-	S-1	HUKUM	
3.	PHILIP ANTONIO PURBA, SH	IPTU	76070206	KASUBNIT 2 UNIT IDIK 5	-	S-1	HUKUM	
4.	JHON DONNY OSMOND	AIPTU	73060427	PENYELIDIK	-	-	-	
5.	AZRIADI, SH	AIPDA	81110641	PENYELIDIK	-	S-1	HUKUM	
6.	SAN FRANCISCO PURBA, SH	AIPDA	82070169	PENYELIDIK	-	S-1	HUKUM	
7.	KENNORTON SIMANJUNTAK, SH	BRIPKA	78050998	PENYELIDIK	-	S-1	HUKUM	
8.	ERWIN OKTORIAN, SE	BRIPKA	81100119	PENYELIDIK	-	S-1	HUKUM	
9.	FRAMOCHYRO SIJABAT	BRIGADIR	85101710	PENYELIDIK	-	-	-	
10.	M. SENDORO Z, S.H	BRIPTU	95071111	PENYELIDIK	-	S-1	HUKUM	
11.	MUHAMMAD FITRAH PRABOWO	BRIPDA	97020463	PENYELIDIK	-	-	-	

12. MASPER ....

NO	NAMA	PANGKAT	NRP	JABATAN	MENGIKUTI PELATIHAN HKI (HAK KEKAYAAN INTELEKTUAL)	STRATA	PRODI	KET
1	2	3	4	5	6	7	8	9
12.	MASPER SIRAIT	AIPTU	69120400	P.PEMBANTU	-	-	-	
13.	ADE RUSLI SINAGA, SH, MH	AIPTU	76030038	P.PEMBANTU	-	S-2	HUKUM	
14.	MARULI H MANULANG, SH	AIPTU	76060027	P.PEMBANTU	-	S-1	HUKUM	
15.	TONI, SH	AIPDA	73020186	P.PEMBANTU	-	S-1	HUKUM	
16.	RUDY SYAHPUTRA, SH	BRIPKA	84090956	P.PEMBANTU	-	S-1	HUKUM	
17.	M. DIMPOS SITUMORANG, SH	BRIPKA	85110442	P.PEMBANTU	-	S-1	HUKUM	
18.	VICTORY SINULINGGA	BRIGADIR	87110662	P.PEMBANTU	-	-	-	
19.	ANDRI SYAHPUTRA NST, SH	BRIGADIR	87120875	P.PEMBANTU	-	S-1	HUKUM	
20.	IMAN SYAHPUTRA HAREFA, SH	BRIPKA	93090632	P.PEMBANTU	-	S-1	HUKUM	

Source : The Indonesian National Police, North Sumatra City Resort, Medan City Police Precinct

Referring to the data above, there is a capacity weakness at the individual level, that is, none of the personnel assigned to have special abilities related to the sector of intellectual property rights<sup>34</sup>, especially the copyright. Meanwhile, from the education side, only 1 person has taken a master degree of the 20 personnel. In addition, the Head of Investigator<sup>5</sup> Unit of Medan Police Precinct revealed the weaknesses at the organizational level, that the establishment of organizational relationships and networks which made the independence in law enforcement was not guaranteed.<sup>35</sup>

It is very understandable that the police have qualified capabilities in preliminary investigation and full investigation, but like it or not, the weaknesses must also be acknowledged regarding the understanding of the substance of the legal rules in the field of Intellectual Property, particularly the copyright of songs and / or music with or without text. Thus it shows that the police should coordinate with various stakeholders, especially in this case Civil Servant Investigators who come from the Directorate General of Intellectual Property, who in fact have the opposite ability to understand legal rules in the field of Intellectual Property, but have weaknesses in conducting preliminary investigation and full investigation. Of course, besides that, it is also important to increase understanding of legal rules in the field of Intellectual Property on a regular basis within the police.

<sup>34</sup> Setianto, O., Agusta, H., Nadya, A. P., Siahaan, R., & Firanda, G. A. (2020). Legal Application of the Right to Data Portability In Peer To Peer Lending in Indonesia. *Jurnal Legalitas*, 13(02), 103-114.

<sup>35</sup> *Ibid.*

Understanding the rule of law is very important, considering that conceptually copyright does not recognize the concept of full monopoly, so that the similarity of song and / or music works with or without text is very likely to occur, and this is not considered a violation. Of course this has the potential to cause problems, so that in determining which ones can be classified as violations and which ones do not require qualified skills.<sup>36</sup>

#### 4.3.3 Legal Awareness Factors

The public's legal awareness factor is one of the obstacles in enforcing copyright law generally, and particularly the songs and/or music (with or without lyrics) in Indonesia. This legal awareness is due to a lack of understanding of the copyright law, therefore, copyright infringements are rampant, and even the public is less reacting to the widespread copyright infringements and related rights.<sup>37</sup>

Consequently, it is very urgent to hold legal counselings on copyright for public, regularly, in Medan City. This legal education should also be conducted at most, which then followed by monitoring and evaluation in order to find out to what extent the public has understood regarding the copyright law, especially for songs and/or music (with or without lyrics).

#### 4.3.4 Cultural Factors

Legal development is very much influenced by cultural factors, therefore, it is worth recognizing how Indonesian legal culture views the Intellectual Property (IP). As a communalistic-spiritualistic follower, this concept actually does not really support the development of IP law. Indonesia is a country with the largest Muslim population in the world, in which its teachings emphasize charity rather than attaining temporary reward. It is not surprising that the number of IPR applications, especially for patents, is minimal. The number of patent applications in Arab countries is more than 100,

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<sup>36</sup> Arya Utama. (2019). "Perlindungan Hukum Terhadap Hak Cipta Lagu dan Musik Menurut Undang-Undang Nomor 28 Tahun 2014". *Jurnal Ganec Swara* 13 (1): 78-83.

<sup>37</sup> Balqis Hedyati Maharani and Ayup Suran Ningsih. (2019). "Penegakan Hukum Hak Cipta terhadap Pembajakan Film secara Daring (The Copyright Law Enforcement Against Online Movie Piracy)". Faculty of Law, Semarang State University. *Jurnal Meta Yuridis* 2 (1): 23.

while Indonesia, with the world's largest Muslim population, only has 40 inventions.<sup>38</sup> In addition, the next problem is related to the public opinion that IP is given legal protection to encourage people to continue to be creative; however, the reality is the opposite.<sup>39</sup> Take a look at the Balinese who don't stop painting or carving even when their works are imitated. Hence, it can be concluded that our Indonesian culture, which is communalistic-spiritualistic at the same time, has not been able to encourage the development of the IP law, thus, the IP law in Indonesia is still difficult to expect to grow rapidly.<sup>40</sup>

## 5. Conclusion

Based on the above discussion, the following conclusions can be made: **First**, the types of copyright infringement of songs and/or music (with or without lyrics) found in Medan City include: the distribution of the works or the copies; the performances of the works, and the announcements of the works; **second**, the Medan City Police Precinct has not yet been optimal in carrying out their role in law enforcement on the copyright infringement of songs and/or music (with or without lyrics); and **third**, the factors that influence law enforcement on the copyright infringement of songs and/or music (with or without lyrics) in Medan, are: The legislation factor in terms of antragsdelikt; the law enforcement factor in terms of the capacity of members; the less supportive factor of facilities and infrastructure; the legal awareness factor in terms of the lack of legal counseling; and the cultural factor related to the differences in norms in the copyright law between those in the society and those in the regulation.

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<sup>38</sup> Insan Budi Maulana. (2009). *"Politik dan Manajemen Hak Kekayaan Intelektual (The Politics and Management of the Intellectual Property Rights)"*. Bandung: Alumni. p. 46.

<sup>39</sup> Puluhalawa, F. U., Puluhalawa, J., & Katili, M. G. (2020). Legal Weak Protection of Personal Data in the 4.0 Industrial Revolution Era. *Jambura Law Review*, 2(2), 182-200.

<sup>40</sup> Anwar Borahima. (2020). *"Budaya Indonesia dan Hak Kekayaan Intelektual (Indonesian Culture and the Intellectual Property Rights)"*. Retrieved from <http://eksepsionline.com/2013/02/01/budaya-indonesia-dan-hak-kekayaan-intelektual/>. Accessed on February 2, 2020.

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